

22.406-12 Cooperation with the Department of Labor.

(a) The contracting agency shall cooperate with representatives of the Department of Labor in the inspection of records, interviews with workers, and all other aspects of investigations undertaken by the Department of Labor. When requested, the contracting agency shall furnish to the Secretary of Labor any available information on contractors, subcontractors, current and previous contracts, and the nature of the contract work.

(b) If a Department of Labor representative undertakes an investigation at a construction project, the contracting officer shall inquire into the scope of the investigation, and request to be notified immediately of any violations discovered under the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, or the Copeland (Anti-Kickback) Act.

22.406-13 Semiannual enforcement reports.

A semiannual report on compliance with and enforcement of the construction labor standards requirements of the Davis-Bacon Act and Contract Work Hours and Safety Standards Act is required from each contracting agency. The reporting periods are October 1 through March 31 and April 1 through September 30. The reports shall only contain information as to the enforcement actions of the contracting agency and shall be prepared as prescribed in Department of Labor memoranda and submitted to the Department of Labor within 30 days after the end of the reporting period. This report has been assigned interagency report control number 1482-DOL-SA.

22.407 Solicitation provision and contract clauses.

(a) Insert the following clauses in solicitations and contracts in excess of \$2,000 for construction within the United States:

- (1) 52.222-6, Davis-Bacon Act.
- (2) 52.222-7, Withholding of Funds.
- (3) 52.222-8, Payrolls and Basic Records.
- (4) 52.222-9, Apprentices and Trainees.
- (5) 52.222-10, Compliance with Copeland Act Requirements.

(6) 52.222-11, Subcontracts (Labor Standards).

(7) 52.222-12, Contract Termination—Debarment.

(8) 52.222-13, Compliance with Davis-Bacon and Related Act Regulations.

(9) 52.222-14, Disputes Concerning Labor Standards.

(10) 52.222-15, Certification of Eligibility.

(b) Insert the clause at 52.222-16, Approval of Wage Rates, in solicitations and contracts in excess of \$2,000 for cost-reimbursement construction to be performed within the United States, except for contracts with a State or political subdivision thereof.

(c) A contract that is not primarily for construction may contain a requirement for some construction work to be performed in the United States. If under 22.402(b) the requirements of this subpart apply to the construction work, insert in such solicitations and contracts the applicable construction labor standards clauses required in this section and identify the item or items of construction work to which the clauses apply.

(d) Insert the clause at 52.222-17, Labor Standards for Construction Work—Facilities Contracts, in solicitations and contracts, if a facilities contract (see 45.301) may require covered construction work (see 22.402(b)) to be performed in the United States.

(e) Insert the clause at 52.222-30, Davis-Bacon Act—Price Adjustment (None or Separately Specified Pricing Method), in solicitations and contracts if the contract is expected to be—

(1) A fixed-price contract subject to the Davis-Bacon Act that will contain option provisions by which the contracting officer may extend the term of the contract, and the contracting officer determines the most appropriate contract price adjustment method is the method at 22.404-12(c)(1) or (2); or

(2) A cost-reimbursable type contract subject to the Davis-Bacon Act that will contain option provisions by which the contracting officer may extend the term of the contract.

(f) Insert the clause at 52.222-31, Davis-Bacon Act—Price Adjustment (Percentage Method), in solicitations

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and contracts if the contract is expected to be a fixed-price contract subject to the Davis-Bacon Act that will contain option provisions by which the contracting officer may extend the term of the contract, and the contracting officer determines the most appropriate contract price adjustment method is the method at 22.404-12(c)(3).

(g) Insert the clause at 52.222-32, Davis-Bacon Act—Price Adjustment (Actual Method), in solicitations and contracts if the contract is expected to be a fixed-price contract subject to the Davis-Bacon Act that will contain option provisions by which the contracting officer may extend the term of the contract, and the contracting officer determines the most appropriate method to establish contract price is the method at 22.404-12(c)(4).

(h) Insert the provision at 52.222-5, Davis Bacon Act—Secondary Site of the Work, in solicitations in excess of \$2,000 for construction within the United States.

[53 FR 4935, Feb. 18, 1988, as amended at 66 FR 53481, Oct. 22, 2001; 70 FR 33667, June 8, 2005]

Subpart 22.5 [Reserved]

Subpart 22.6—Walsh-Healey Public Contracts Act

22.601 [Reserved]

22.602 Statutory requirements.

Except for the exemptions at 22.604, all contracts subject to the Walsh-Healey Public Contracts Act (the Act) (41 U.S.C. 35-45) and entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation (all the stock of which is beneficially owned by the United States) for the manufacture or furnishing of materials, supplies, articles, and equipment (referred to in this subpart as supplies) in any amount exceeding \$10,000, shall include or incorporate by reference the stipulations required by the Act pertaining to such matters as minimum wages, maximum hours,

child labor, convict labor, and safe and sanitary working conditions.

[61 FR 67410, Dec. 20, 1996]

22.603 Applicability.

The requirements in 22.602 apply to contracts (including for this purpose, indefinite-delivery contracts, basic ordering agreements, and blanket purchase agreements) and subcontracts under Section 8(a) of the Small Business Act, for the manufacture or furnishing of supplies that—

(a) Will be performed in the United States, Puerto Rico, or the U.S. Virgin Islands;

(b) Exceed or may exceed \$10,000; and

(c) Are not exempt under 22.604.

[68 FR 28082, May 22, 2003]

22.604 Exemptions.

22.604-1 Statutory exemptions.

Contracts for acquisition of the following supplies are exempt from the Act:

(a) Any item in those situations where the contracting officer is authorized by the express language of a statute to purchase “in the open market” generally (such as commercial items, see part 12); or where a specific purchase is made under the conditions described in 6.302-2 in circumstances where immediate delivery is required by the public exigency.

(b) Perishables, including dairy, live-stock, and nursery products.

(c) Agricultural or farm products processed for first sale by the original producers.

(d) Agricultural commodities or the products thereof purchased under contract by the Secretary of Agriculture.

[48 FR 42258, Sept. 19, 1983, as amended at 53 FR 4944, Feb. 18, 1988; 60 FR 48248, Sept. 18, 1995]

22.604-2 Regulatory exemptions.

(a) Contracts for the following acquisitions are fully exempt from the Act (see 41 CFR 50-201.603):

(1) Public utility services.

(2) Supplies manufactured outside the United States, Puerto Rico, and the U.S. Virgin Islands.